

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See instructions for "Service of Process by U.S. Marshal"

PLAINTIFF

UNITED STATES OF AMERICA

COURT CASE NUMBER

CIVIL NO. 98-109 (GG)

DEFENDANT

GILBERTO MALAVE NUÑEZ

TYPE OF PROCESS

WRIT OF EXECUTION

SERVE
AT

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO BE SEIZED OR COURT ORDER

MARSHAL, SUPERIOR COURT

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

ARECIBO PART, ARECIBO, PR

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW

REBECCA VARGAS VERA

Assistant U.S. Attorney
Torre Chardón, Suite 1201
350 Carlos E. Chardón Street
Hato Rey, PR 00918
Attn: Foreclosure Unit/GGB/RLP
Claim No. 2003v00296

Number of process to be served with this Form 285

Number of parties to be served in this case

Check for service on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

PLEASE EXECUTE WRIT OF EXECUTION AND CONDUCT JUDICIAL SALE AS S.A.M.S.

MANDATED IN THE WRIT, EXECUTE AT ADDRESS INDICATED ABOVE.

Signature of Attorney other Originator requesting service on behalf of:

REBECCA VARGAS VERA

☐ PLAINTIFF

☐ DEFENDANT

TELEPHONE NUMBER

(787) 766-5656

DATE

11/12/04

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated.
(Sign only for USM 285 if more than one USM 285 is submitted)

Total Process

1

District of Origin

No. 69

District to Serve

No. 69

Signature of Authorized U.S. Deputy or Clerk

R.S.

Date

11-24-04

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)

☐ A person of suitable age and discretion then residing in defendant's usual place of abode

Address (complete only different than shown above)

Date

01/12/05

Time

2:00

☐ am
☒ pm

Signature of U.S. Marshal or Deputy

Service Fee

Total Mileage Charges including endeavors)

Forwarding Fee

Total Charges

Advance Deposits

Amount owed to U.S. Marshal* or (Amount of Refund*)

\$ 135.00

\$ 36.00

\$ 4.10

\$ 175.10

REMARKS:

PRIOR EDITIONS MAY BE USED

PRINT 5 COPIES:

1. CLERK OF THE COURT

2. USMS RECORD

3. NOTICE OF SERVICE

4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.

5. ACKNOWLEDGMENT OF RECEIPT

FORM USM-285
Rev. 12/15/80
Automated 01/00

United States Marshals Service

Return

Case no.: CV: 97-1209(GG)

I, Jose Barreto, a duly sworn and authorized Deputy U.S. Marshal, does hereby certify and state, that I offered for sale in Public Auction, the property described in the Order/Notice of Sale or Writ of execution attached hereto and made part of this return as ordered by the United States District Court District of Puerto Rico.

Also, that said Notice of Sale was published as required and is supported by the accompanying Affidavit of Publication. Further, that the sale began at the hour of 2:00 pm on the 12th day of January, 2005; when I offered for sale said property in Public Auction and that I received from Mr. Genibert Lecusay, in representation of BL Investment, the amount of \$ 42,000.00 . Such amount was offered as the highest bid and that being the highest bid received, the sale was awarded to him.

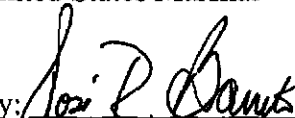
Marshal's fees, indicated below, will be deducted from the case deposit on hand or the proceeds of the sale, whichever is deemed appropriate, after confirmed by the Court.

MARSHAL'S FEES

| | |
|--|-------------|
| Highest Bid | \$42,000.00 |
| 3% OF 1 ST \$1,000.00 | \$30.00 |
| 1 ½ % of remaining balance | \$615.00 |
| Execution of sale fee (1 hours X \$45.00) | \$135.00 |
| Total Mileage (including endeavors)@ \$0.325 | \$36.00 |
| Tolls (including endeavors) | \$4.10 |
| Other Expenses | \$20.00 |
| Total | \$840.10 |

This at San Juan, Puerto Rico on January 12, 2005.

HERMAN J WIRSHING
United States Marshal

By: 
Deputy U.S. Marshal

AUCTION RECORD

(1ST) (2ND) (3RD) SALE
 CASE NO. 97-1209 66 DATE: 01/12/05 START 2:00 PM TIMES END

 CASE TITLE: U.S.A. vs GILBERT MALAVE NUÑEZ

RECORD OF ATTENDANCE

| NAME: (PRINTED) | SIGNATURE | TELEPHONE | ADDRESS |
|---|--------------------|-----------------------|---|
| 1) <u>Salvador Quintana</u> | <u>[Signature]</u> | <u>(787) 888-3772</u> | <u>80 Avenida Muñoz Linea</u> <u>Comun. P.R. 00627</u> |
| 2) <u>H. Almon López</u> | <u>[Signature]</u> | <u>(787) 439-6481</u> | <u>P.O. Box 19287</u> <u>Arecibo, P.R.</u> |
| 3) <u>Genibert Lecusay</u> ^{BL INVEST} | <u>[Signature]</u> | <u>(787) 253-9572</u> | <u>Carolina</u> |
| 4) | | | |
| 5) | | | |
| 6) | | | |
| 7) | | | |
| 8) | | | |
| 9) | | | |
| 10) | | | |

RECORD OF BIDDING

| | | | | |
|------------------------------------|----------------------|----------------------|----------------------|----------------------|
| (1) \$ <u>30,110.⁹⁵</u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> |
| (2) \$ <u>39,000.⁰⁰</u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> |
| (3) \$ <u>40,000.⁰⁰</u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> |
| (2) \$ <u>40,500.⁰⁰</u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> |
| (3) \$ <u>42,000</u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> | () \$ <u> </u> |

 HIGHEST BID RECEIVED \$ 42,000.⁰⁰ BY Genibert Lecusay - BL INVESTMENT MINIMUM BID \$ 36,000.⁰⁰

U.S. MARSHAL'S EXPENSES

| | |
|-------------------------|------------------|
| SERVICE FEE | \$ <u>135.00</u> |
| MILEAGE @ \$0.325 | \$ <u>36.00</u> |
| TOLLS | \$ <u>4.10</u> |
| OTHER | \$ <u> </u> |
| TOTAL | \$ <u>175.10</u> |

 HERMAN J. WIRSHING,
U.S. MARSHAL

[Signature]
DEPUTY U.S. MARSHAL
Jose R. Barreto

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CIVIL NUMNO. 97-1209 (GG)
UNITED STATES OF AMERICA (RURAL DEVELOPMENT)

VS.

GILBERTO MALAVE NUÑEZ

FORECLOSURE OF MORTGAGE

AFFIDAVIT

I, Marilisa Román, of legal age, married, employee and resident of Bayamón, Puerto Rico, do solemnly swear:

That my name is the above mentioned and my personal circumstances are those as stated. That I am an Employee, of "EL NUEVO DIA", newspaper of General Circulation in the Island of Puerto Rico, and that position in Advertising and Legal Notice Department Supervisor and I am in charge of the advertisement.

I also declare that in the edition of this newspaper corresponding

DECEMBER 15, 22, 29, 2004, & JANUARY 5, 2005

an advertisement was published that deals with the following:

HERMAN J. WISHING, UNITED STATES MARSHAL, BY: ROBERTO, SCHIMDT,
LEGAL TECHICIAN

In witness whereof and upon request of those concerned, I swear to and sign the present in Guaynabo, P.R. this _____ day of JAN 13 2005, 20____

Marilisa Román

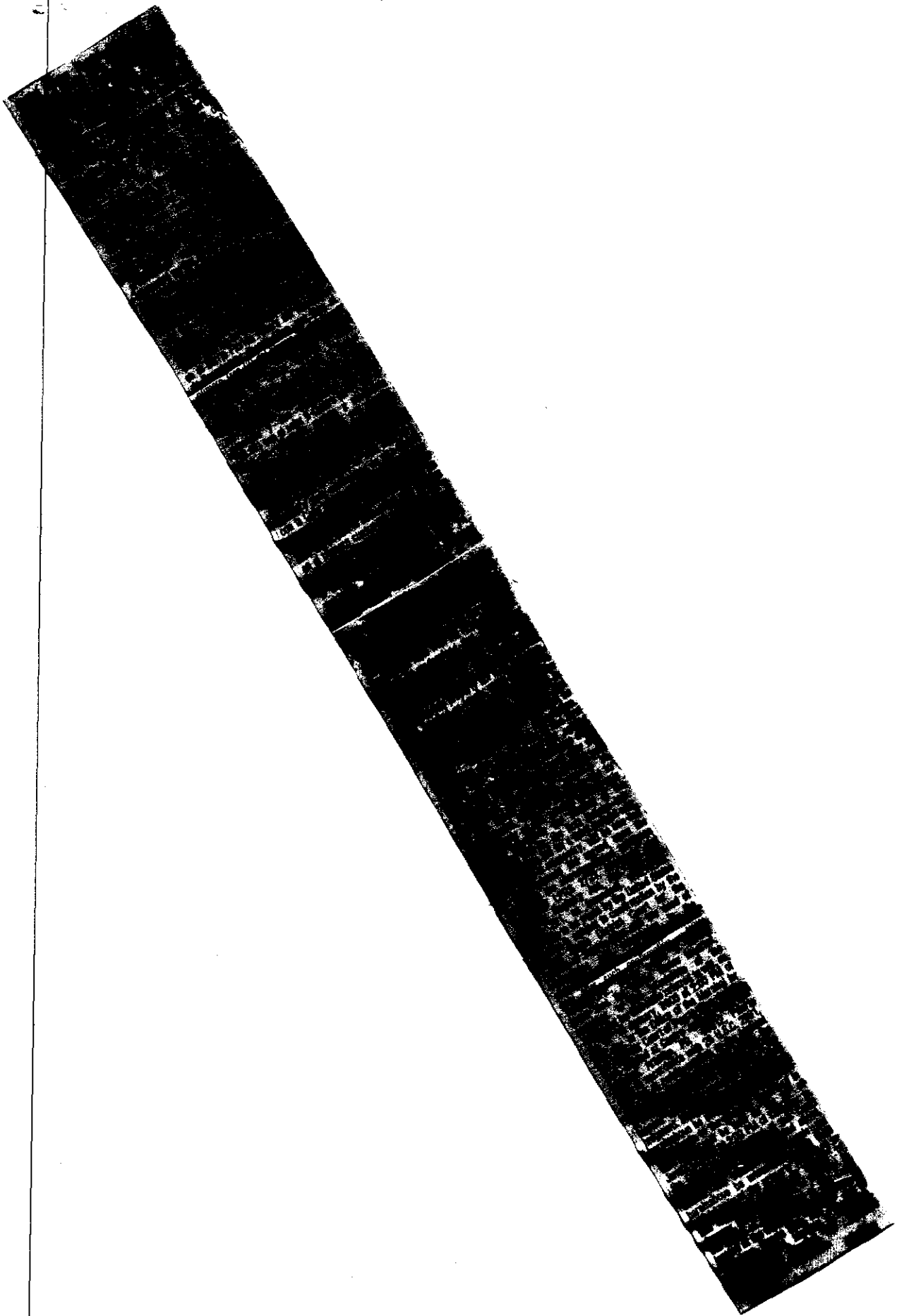
Affidavit No. 44,241

Acknowledged and sworn to before me by Marilisa Román and resident of Bayamón, Puerto Rico, whom I know personally.0000



Guaynabo, P.R. JAN 13 2005 19____

[Signature]
NOTARY PUBLIC



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
(Rural Development)

Plaintiff

v.

GILBERTO MALAVET NUNEZ

Defendant

CIVIL NO. 97-1209 (GG)

FORECLOSURE OF MORTGAGE

NOTICE OF SALE

To: **GILBERTO MALAVET NUNEZ**, and any other party with interest over the property mentioned below.

WHEREAS: Judgment in favor of the United States of America was entered for the principal aggregate amount of \$35,217.80 plus \$21,611.08 in interest accrued as of May 5, 2003, plus \$8.44 per day from then on until payment in full, plus attorney's fees and costs, plus any charge, fee, cost or disbursement that may have been incurred by plaintiff according to the terms of the promissory note or mortgage loan being foreclosed.

The records of the case and of these proceedings may be examined by interested parties at the Office of the Clerk of the United States District Court, Federal Building, Chardón Avenue, Hato Rey, Puerto Rico.

WHEREAS: Pursuant to the terms of the aforementioned judgment and the order of execution thereof, the following property

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belonging to the defendant will be sold at public auction:

"Solar sito en la Urbanización El Parque en el Barrio Florida Afuera del Municipio de Barceloneta, Puerto Rico, que lleva el número Tres (3) del bloque "B" del Plano de Inscripción. Tiene una cabida superficial de Ciento Setenta y Seis metros cuadrados y Cuarenta y Nueve centésimas de otro (176.49), en lindes por el Norte, en veintiseis metros y cuarenta y dos centésimas de otro (26.42) con el solar B-Cuatro (B-4); por el Sur, en veintiseis metros y cincuenta centésimas de otro (26.50), con el solar B-Dos (B-2); por el Este, en seis metros y sesenta y siete centésimas de otro (6.67), con los solares B-Doce (B-12) y B-Trece (B-13) y por el Oeste, en seis metros y sesenta y siete centésimas de otro (6.67) con la Calle número dos (2).

Enclava una estructura residencial con servidumbre de pared medianera que la comunica por su lado Norte con la estructura que enclava en el número cuatro (4) del Bloque "B" y por el lado Sur, con la estructura que enclava en el número dos (2) del Bloque "B" de la referida urbanización".

Plaintiff's mortgage was recorded at page 74, volume 104 of Barceloneta, property number 6,223, 5th inscription, at the Registry of the Property of Manatí, Puerto Rico.

WHEREAS: This property is subject to the following liens:

Senior Liens: None

Junior Liens: None

Other Liens:

Potential bidders are advised to verify the extent of preferential liens with the holders thereof. It shall be understood that each bidder accepts as sufficient the title and that prior and preferential liens to the one being foreclosed upon, including but not limited to any property tax liens (express, tacit, implied or legal), shall continue in

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effect it being understood further that the successful bidder accepts them and is subrogated in the responsibility for the same and that the bid price shall not be applied toward their cancellation.

WHEREAS: For the purpose of the first judicial sale, the minimum bid agreed upon by the parties in the mortgage deed will be \$36,000.00 and no lower offer will be accepted. Should the first judicial sale of the above described property be unsuccessful, then the minimum bid for the property on the second judicial sale will be two-thirds the amount of the minimum bid for the first judicial sale. The minimum bid for a third judicial sale, if the same is necessary, will be one-half of the minimum bid agreed upon the parties in the aforementioned mortgage deed. (30 LPRA 2721, Mortgage and Property Registry Act, Act. No. 198, Article 221, as amended).

WHEREAS: Said sale to be made by the United States Marshal is subject to confirmation by the United States District Court for the District of Puerto Rico and the deed of conveyance and possession to the property will be executed and delivered only after such confirmation.

NOW THEREFORE, public notice is hereby given that the United States Marshal, pursuant to the provisions of the Judgment hereinbefore referred to will, on the 12th of January, 2005 at 2:00 PM of said day, in the Office of the Marshal for the Superior Court

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of Puerto Rico, Arecibo Part, located at Centro Judicial, Ave. Los Rotarios, Arecibo, PR 00612, Puerto Rico, in accordance with 28 U.S.C. 2001, will sell at public auction to the highest bidder, the property described herein, the proceeds of said sale to be applied in the manner and form provided by the said judgment.

Should the first judicial sale set hereinabove be unsuccessful, the second judicial sale of the property described in this Notice will be held on the 19th of January, 2005 at 2:00 PM of said day, in the Office of the Marshal of this Court located at the address indicated above. Should the second judicial sale set hereinabove be unsuccessful, the third judicial sale of the property described in this Notice will be held on the 26th of January, 2005 at 2:00 PM of said day, in the Office of the Marshal of this Court located at the address indicated above.

In San Juan, Puerto Rico, this 24th day of November, 2004.

HERMAN J. WIRSHING
United States Marshal

By:


Roberto Schmidt
Legal Technician